

REMARKS

The present Office Communication is a notice of non-compliant amendment that is directed in part to each of the last three amendments filed and entered in this matter.

1. Amendment of Claims 2 and 8 in the Amendments of January 17, 2008 and May 19, 2008.

As to the amendments filed on January 17, 2008 and May 19, 2008, a question is raised as to why the amendments to Claims 2 and 8 presented on January 17, 2008 were re-presented on May 19, 2008. In response, Applicants note that the May 9, 2008 Office Communication to which the May 19, 2008 submission was responsive was styled as a notice of non-compliant amendment. In that Communication, the Listing of Claims submitted on January 17, 2008 was objected to as not including status identifiers for all claims of record.

Re-presentation of the Listing of Claims was required to provide a Listing with the requested status identifiers. Therefore, to address the non-compliance objection, the amendments to Claims 2 and 8 originally filed on January 17, 2008 were re-presented with status identifiers for all claims to be examined on May 19, 2008.

2. Pending/Withdrawn Claims Following the Amendments of January 17, 2008 and May 19, 2008.

As part of the May 19, 2008 submission, Applicants also submitted new claims 77-79 as an addition prior to substantive examination. In the remarks, claims pending for examination after amendment were identified as being claims 2-4, 8, 11-12, 27-29, 32-41, 68 and 76-79. The present Office Communication questions why claims 14, 16-21, 23-26, 43-51 and 62-67 were not included in the list provided in the remarks. Applicants responds that this is because those claims are withdrawn from examination, and the comment made in their remarks was addressed

to claims pending for examination. The withdrawn claims are, however, properly included in the Listing of Claims (with an appropriate status identifier).

Therefore, to clarify the record, as of May 19, 2008, claims 2-4, 8, 11-12, 27-29, 32-41, 68 and 76-79 were pending for examination, claims 14, 16-21, 23-26, 43-51 and 62-67 were (and remain) withdrawn from examination, and claims 2-8 stood amended.

3. Submission of October 13, 2008.

On August 13, 2008, a further Office Communication was mailed. The Office Communication raised questions regarding the substantive arguments that were presented in Applicants' amendment of January 17, 2008. No formal rejections or objections were stated.

On October 13, 2008, Applicants submitted a reply to the questions raised in the August 13, 2008 Office Communication, and amended Claims 77-79 as requested. The present Office Communication states that the reply was received on October 13, 2008, but also faxed on October 14, 2008. Applicants have no record of having faxed the reply on October 14, 2008 after its submission on October 13 through the EFS, and so can't explain why the Office's eDAN file application indicates that such a fax was received.

4. Query Regarding the Status of the Further Proposed Amendment Submitted in Draft on October 27, 2008.

However, on October 27, 2008, following a telephone discussion on October 15, 2008 with the Examiner, Applicants did submit a proposed further reply (entitled Supplemental Reply to Office Communication) in draft form by fax, for the Examiner's consideration but not entry. No response to that proposed draft Reply has been received, but it seems at least possible that it is the draft misidentified in the Office's system as having been faxed on October 14. In any event, consideration and comment with respect to the proposed draft of October 27, 2008 is respectfully requested.

In re Application of:

Prussak et al.

Application No.: 10/006,305

Filed: December 6, 2001

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PATENT

Attorney Docket No.: ST-UCSD3140

CONCLUSION

Applicants believe that the present application is now in condition for allowance.

Favorable consideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone with respect to the proposed draft Reply of October 27, 2008, and if it is felt that a telephone interview would advance the prosecution of the present application.

No fee is believed to be due in connection with filing this paper. However, the Commissioner is hereby authorized to charge any other fees associated with the filing submitted herewith, or credit any overpayments to Deposit Account No. 07-1896 referencing the above-identified attorney docket number.

Respectfully submitted,



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